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09/29/2022

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

IN RE:	§	
	§	
THE LINDERIAN COMPANY, LTD.	§	Case No. 22-60024
xx-xxx8556	§	
301 Hollybrook Dr., Longview, TX 75605	§	
	§	
Debtor	§	Chapter 11 - Subch. V

**ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE
DISMISSED OR CONVERTED FOR CAUSE UNDER § 1112**

On September 28, 2022, the Court conducted a status conference in this case. This status conference was held as a result of various presentations made at a prior hearing held September 21, 2022, to consider the “Motion to Compel Compliance with Court’s Order Granting Allowance of Compensation and Reimbursement of Expenses” filed by Susan N. Goodman, as Patient Care Ombudsman. These presentations by counsel for interested parties and Debtor regarding the current state of Debtor’s operations and compliance with this Court’s cash collateral order and related stipulations raised questions for the Court concerning not only Debtor’s reorganization efforts, but the stability of Debtor’s operations. Because Debtor is a medical facility with resident patients, continuity of operations is critically important. At the September 28, 2022 status conference, after hearing further reports from counsel for various interested parties including the Texas Health and Human Services Commission and the Patient Care Ombudsman, the Court set a further status conference to be held October 5, 2022. A confirmation hearing is also scheduled to be held October 13, 2022, to consider Debtor’s

proposed reorganization plan. That plan appears to contemplate a possible sale transaction, and the Court understands that Debtor, Debtor's landlord, Debtor's prospective purchaser, the Texas Health and Human Services Commission, the Patient Care Ombudsman, and the Internal Revenue Service have been in regular communication regarding this case's progression.

Despite these efforts, and because of the nature of Debtor's business, the Court finds it appropriate to enter this order to show cause why this case should not be dismissed or converted to give all interested parties advance notice of the existence of such possibility. This show cause order is not intended to prejudice Debtor's efforts to achieve confirmation of a reorganization plan. Instead, the Court must look to § 1112(b) for guidance on when and whether conversion or dismissal in circumstances such as are present in this case is warranted. A "party in interest" is permitted to make a request for dismissal pursuant to § 1112(b). Numerous courts have read this provision in conjunction with § 105 to give bankruptcy courts the power to dismiss or convert a case *sua sponte*. See *In re Irasel Sand, LLC*, 569 B.R. 433, 439 (Bankr. S.D. Tex. 2017) (collecting cases); see also *In re Shea, Ltd.*, 545 B.R. 529, 535 (Bankr. S.D. Tex. 2016). Conversion or dismissal is warranted where "cause" exists. 11 U.S.C. § 1112(b). Among other reasons, "cause" includes unauthorized use of cash collateral pursuant to § 1112(b)(4)(D), failure to timely file post-petition tax returns or pay post-petition taxes pursuant to § 1112(b)(4)(I), and substantial or continuing loss to, or diminution of, the estate and absence of a reasonable

likelihood of rehabilitation § 1112(b)(4)(A).

The possibility of a failure to achieve plan confirmation, termination of Debtor's authority to use cash collateral, failure to maintain business operations to the detriment of residents at Debtor's medical facility, or of regulatory action by the Texas Health and Human Services Commission as appropriate under state law for benefit of patients, may constitute cause to dismiss or convert this case under § 1112 of Title 11 of the Bankruptcy Code. Accordingly, just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that, an in person hearing will be conducted on **Thursday, October 13, 2022, at 9:30 a.m.** in the Courtroom of the United States Bankruptcy Court, Plaza Tower, 110 N. College Ave., 9th Floor, Tyler, TX 75702, for Debtor or any other interested party to show cause as to why this case should not be dismissed or converted pursuant to §1112(b) of Title 11 of the United States Code.

IT IS FURTHER ORDERED that the Court reserves the right, in its discretion as circumstances are warranted, to dismiss or convert this case *sua sponte* pursuant to §1112(b) of Title 11 of the United States Code prior to the October 13, 2022 hearing.

Signed on 09/29/2022

A handwritten signature in black ink, appearing to read 'J. Searcy', is written above a horizontal line.

THE HONORABLE JOSHUA P. SEARCY
UNITED STATES BANKRUPTCY JUDGE